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BSH HOME APPLIANCES CORPORATION

9  
10 UNITED STATES DISTRICT COURT  
11 CENTRAL DISTRICT OF CALIFORNIA  
12 SOUTHERN DIVISION

13  
14 SHARON COBB, et al., individually  
and on behalf of all others similarly  
15 situated,

16 Plaintiffs,

17 v.

18 BSH HOME APPLIANCES  
CORPORATION, a Delaware  
19 corporation,

20 Defendant.

Case No. SACV 10-711 DOC  
(ANx)

**DEFENDANT'S NOTICE OF  
MOTION AND MOTION TO  
EXCLUDE CERTAIN EXPERT  
TESTIMONY AND OPINIONS  
SUBMITTED BY PLAINTIFFS  
IN SUPPORT OF THEIR  
OPPOSITION TO  
DEFENDANTS' MOTION FOR  
PARTIAL SUMMARY  
JUDGMENT**

21 Date: November 17, 2014  
22 Time: 8:30 a.m.  
Place: Courtroom 9D  
Judge: David O. Carter

1           **TO PLAINTIFFS AND THEIR COUNSEL OF RECORD:**

2           **PLEASE TAKE NOTICE** that on November 17, 2014, at 8:30 a.m., or as  
3 soon thereafter as the matter may be heard, in Courtroom 9D of the United States  
4 District Court for the Central District of California, located at 411 West Fourth  
5 Street, Room 1053, Santa Ana, CA 92701, Defendant BSH Home Appliances  
6 Corporation (“BSH”) will and hereby does move the Court to exclude certain  
7 testimony and opinions of Plaintiffs’ experts Eugene Ericksen, Marc Rysman, John  
8 Goodman, Chin Yang, and John Chiu for failing to meet the standards of relevance  
9 and reliability required by Federal Rule of Evidence 702 under the principles set  
10 forth in *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993), and  
11 *Kumho Tire Co. v. Carmichael*, 526 U.S. 137 (1999).

12           In particular, BSH moves to exclude the following testimony and opinions  
13 that Plaintiffs submitted in support of their opposition to BSH’s Motion for Partial  
14 Summary Judgment:

15           1) Eugene Ericksen’s opinion and testimony concerning the results of the  
16 “conjoint survey” he administered.

17           2) Marc Rysman’s opinion and testimony concerning the price elevation and  
18 willingness-to-pay damages theories.

19           3) John Goodman’s opinion and testimony concerning consumer behavior  
20 and complaint rates related to BSH consumers and BSH 27-inch washing machines.

21           4) Chin Yang’s opinion and testimony that: (1) any person suffered any  
22 negative health effect as a result of mold or bacteria inside a BSH washer; and  
23 (2) that mold or bacteria inside a BSH washer could cause a negative health effect.

24           5) John Chiu’s opinion and testimony that: (1) any person suffered any  
25 negative health effect as a result of mold or bacteria inside a BSH washer; and  
26 (2) that mold or bacteria inside a BSH washer could cause a negative health effect.

27           For judicial economy, BSH does not file a duplicative motion to exclude the  
28 testimony of these witnesses, but rather incorporates the relevant portions of BSH’s

1 Daubert Motion to Exclude Certain Testimony at Trial, filed on October 6, 2014.  
2 (Dkt. No. 335). BSH specifically incorporates the following sections:

- 3 1) Section III.A. regarding Eugene Ericksen;
- 4 2) Section III.B. regarding Marc Rysman;
- 5 3) Section III.C. regarding John Goodman;
- 6 4) Section III.F. regarding Chin Yang; and
- 7 5) Section III.F. regarding John Chiu.

8 As a result, this Motion will be based upon this Notice of Motion and  
9 Motion, the Memorandum of Points and Authorities to Exclude Certain Expert  
10 Testimony at Trial and the and the Declaration of Sarah Conway in support of same  
11 (and all exhibits attached to that declaration) filed on October 6, 2014, the pleadings  
12 and papers filed in this action, and such further evidence, authority, and arguments  
13 as may be presented in advance of or during the hearing on this Motion.  
14

15 Dated: October 8, 2014

JONES DAY

17 By: /s/ Rick L. McKnight  
18 Rick L. McKnight

19 Attorneys for Defendant  
20 BSH HOME APPLIANCES  
21 CORPORATION  
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